

**Notice of Allowability**

Application No.

10/758,410

Examiner

Timothy J. Kugel

Applicant(s)

BOLES, JOEL LYNN

Art Unit

1712

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment after final amendment filed 16 November 2006.
2. ☒ The allowed claim(s) is/are 1-3,5-14,17-25,27 and 29-48.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some\* c) ☐ None of the:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.  
 (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
 (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|  | 9. <input type="checkbox"/> Other _____   |

### DETAILED ACTION

1. Claims 1-3, 5-14, 17-25, 27 and 29-48 are pending as amended on 16 November 2006, claims 4, 15, 16, 26 and 28 being cancelled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Election/Restrictions*

3. Since claims 1, 27 and 39, generic to the non-elected species of claims 11, 35 and 23 respectively have been allowed—see below—claims 11, 23 and 35 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 13 March 2006 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Response to Amendment***

4. Applicant's cancellation of claim 26, filed 16 November 2006, renders the previously cited objection under 37 CFR § 1.75(c) moot.

The objection to claim 26 under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim has been withdrawn.

5. Applicant's arguments, filed 16 November 2006, particularly that the limitation "having less than 1% of the acrylamide groups in the form of carboxylate group" is fully enabled by the original disclosure, have been fully considered and are persuasive.

The rejection of claim 45 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement has been withdrawn.

6. Applicant's arguments, filed 16 November 2006, particularly the correction of claim dependencies in claims 19, 21, 24, 26 and 45 and the clarification that the acid is the aqueous acid in claims 47 and 48, have been fully considered and are persuasive.

The rejection of claims 19-22, 24-26, 45, 47 and 48 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been withdrawn.

7. Applicant's amendment, filed 16 November 2006, with respect to importing the limitation of claims 4, 16 and 28—previously indicated as allowable—into independent

Art Unit: 1712

claims 1, 39 and 27 respectively has been fully considered and overcomes the following.

The rejection of claims 1-3, 5-7, 9, 12, 13, 27, 29-31, 33, 36, 37, 42, 43, 45-47 and 48 under 35 U.S.C. § 103(a) as being unpatentable over US patent 4,624,795 (Dawson hereinafter) in view of US 3,481,400 (Kerver hereinafter) as evidenced by Lactic Acid Relative Density, 2001, [www/inchem.org/documents/icsc/eics0501.htm](http://www.inchem.org/documents/icsc/eics0501.htm) (InChem hereinafter) has been withdrawn.

The rejection of claims 8, 32 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Dawson in view of Kerver as applied to claims 1-3, 5-7, 9, 12, 13, 27, 29-31, 33, 36, 37, 42, 43, 45-47 and 48 described above in further view of US Patent 4,752,404 (Burns hereinafter) has been withdrawn.

The rejection of claims 10 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Dawson in view of Kerver as applied to claims 1-3, 5-7, 9, 12, 13, 27, 29-31, 33, 36, 37, 42, 43, 45-47 and 48 described above in further view of US Patent 4,917,186 (Mumallah hereinafter) has been withdrawn.

The rejection of claims 14, 17-18, 20, 21, 24-26, 38, 39, 40 and 44 under 35 U.S.C. § 103(a) as being unpatentable over Dawson in view of Kerver as applied to claims 1-3, 5-7, 9, 12, 13, 27, 29-31, 33, 36, 37, 42, 43, 45-47 and 48 described above in further view of European Patent Application Publication EP 0275624 (Jacobs hereinafter) has been withdrawn.

The rejection of claim 19 under 35 U.S.C. § 103(a) as being unpatentable over Dawson in view of Kerver in further view of Jacobs as applied to claims 14, 16-18, 20,

Art Unit: 1712

21, 24-26, 38, 39, 40 and 44 detailed above in further view of Burns has been withdrawn.

The rejection of claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Dawson in view of Kerver in further view of Jacobs and Burns as applied to claim 19 detailed above in further view of Mumallah has been withdrawn.

### ***Allowable Subject Matter***

8. Claims 1-3, 5-14, 17-25, 27 and 29-48 are allowed.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday - Thursday.

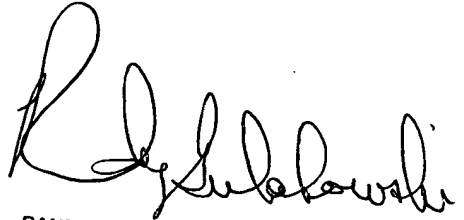
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 1712

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK  
Art Unit 1712



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